

REMARKS

Reconsideration in view of the foregoing amendments and the following remarks, and entry of this paper, is respectfully requested. Moreover, the Applicant has reviewed the Final Office Action of December 30, 2004, and submits that this paper is responsive to all points raised therein.

Interview Summary

The applicant wishes to thank Examiner Raymond Addie, for the telephone interview conducted with the applicant David Gregg, representatives of the assignee of this application, Jeff Wycoff and Randy Akers, and the undersigned attorney, on February 10, 2005. In the Interview, all pending claims 1-4, 6, 7, 9-17, and 29-34 were discussed, as were the references, Jones (U.S. Patent No. 5,022,783) (Jones '783) and Wynings (U.S. Patent No. 6,585,451) (Wynings '451).

Arguments were presented that Jones '783 can not be modified with Wynings '451. These arguments appear in the Remarks below. Amendments to the claims were also proposed, with portions of the proposed amendments appearing in the claims below. Agreement was not reached at this interview, as the Examiner reserved his right to conduct further searches for all proposed amendments.

Status of the Claims

Claims 1-4, 6, 7, 9-17, 19-27, 29-34, and 49-53 are presently pending. Claims 5, 8, 18, 28 and 35-48 have been cancelled previously. Claims 1, 6, 7, 12, 16, 17, 22, 26, 27, and 31 have been amended. Claims 49-53 are new, and have been added.

Confirmation of Election/Restriction

The applicant confirms that claims 35-48 were cancelled, as drawn to a non-elected invention. Applicant notes that this cancellation was made without prejudice and continues to reserve all rights in these claims for filing divisional and/or continuation patent applications.

Claim Objections

Claims 17 and 27 have been amended in accordance with the Examiner's suggestions. Accordingly, it is respectfully asserted that these objections have been cured.

Rejections Under 35 USC 103(a)

Claims 1, 2, 6, 7, 9, 12, 13, 16, 17, 19, 20, 22, 23, 26, 27, 29 and 31-34 were rejected under 35 USC 103(a) as unpatentable over Jones (U.S. Patent No. 5,022,783) (Jones '783) in view of Wynings (U.S. Patent No. 6,585,451) (Wynings '451).

Independent claims 1, 12 and 22 have been amended to recite an apparatus for stamping wet concrete with a receiver portion for receiving a roller. The receiver portion includes oppositely disposed ends with weight holding structures for holding weights along the receiver portion at these oppositely disposed ends. The weight holding structures allow for the roller to be weighted along the receiver portion. For example, this structure allows the roller to be adjustably weighted, to accommodate for the various tightnesses encountered when working wet concrete.

Jones '783 is directed to an apparatus for working green concrete. Green concrete is concrete has hardened well beyond wet concrete, and in this "green" state, is so tight that it can not be imprinted by weighting. Accordingly, Jones discloses a drum 18 with blades 19. The

drum 18 is vibrated with a vibratory mechanism 11, so that the blades 19 can cut the green concrete by "sawing" into it, allowing it to be imprinted. Since Jones '783 imprints concrete by vibratory cutting, it is completely silent as to imprinting concrete by weighting the roller drum 18, as weights are not necessary to augment, and would not add to, the vibratory cutting or sawing forces.

Wynings '451 discloses a lawn or landscaping roller apparatus with a split roller for making zero radius turns. The split roller is such that one roller rotates backward, while the other roller rotates forward, allowing the apparatus to make a zero-radius turn, for negotiating tight spaces. The rollers are for flattening a ground surface, and the structure supporting the rollers includes removable weights at each of its ends.

It is respectfully asserted that Jones '783 can not be modified with Wynings '451, as Jones '783 imprints green concrete with vibrations alone, and does not use weights in any way, as weights would not be of any value when imprinting concrete with blades that cut the concrete by being vibrated. Accordingly, Jones '783 fails to teach or suggest any modifications with weights, such as those taught by Wynings '451. Therefore, Jones '783 remains structurally deficient, as it fails to show the claimed invention including an apparatus for working wet concrete, weight holding structures at the ends of a roller receiving member for weighting the roller.

To weight Jones '783, as taught by Wynings '451, would add nothing to Jones '783. Since Jones '783 teaches imprinting in green concrete by cutting with vibrating blades, weights, as taught by Wynings '451 would not provide any additional forces sufficient to imprint in green concrete. Accordingly, this combination is improper, for absent hindsight, the skilled artisan

with Jones '783 and Wynings '451 before them, would lack any motivation to make this combination.

Based on the above, it is respectfully asserted that Jones '783 and Wynings '451, alone or in any combination, would not render the claimed invention obvious under 35 USC 103(a). Accordingly, claims 1, 12 and 22 are non-obvious under 35 USC 103(a) in view of the cited art.

Since claims 1, 12 and 22 are not obvious under 35 USC 103(a) over Jones '783 in view of Wynings '451, claims 2, 6, 7, and 9, 13, 16, 17, 19 and 20, and 23, 26, 27 and 29, respectively dependent thereon, are also not obvious under 35 USC 103(a), in view of the cited art for the same reasons. These claims further distinguish the invention over the cited art.

Claim 31 is a method claim, that is directed to a method for stamping wet concrete. This method includes providing an apparatus with a roller received in a receiver portion in a rotatable engagement, the receiver portion including oppositely disposed ends configured for receiving weight for weighting the roller, weighting the roller by placing weight at at least one of the ends of the receiver portion, in accordance with the tightness of the concrete being worked, and moving the apparatus to transfer the stamp on the roller into the concrete.

Jones '783 has been discussed above. That discussion is applicable here.

Wynings '451 has been discussed above. That discussion is applicable here.

As discussed above, the combination of Jones '783 and Wynings '451 would not be made by one skilled in the art. Accordingly, the claimed method, that weights the roller at its ends by weighting the receiver portion at its ends, is not shown, taught nor suggested by Jones '783 or Wynings '451, alone or in combination. Additionally, neither Jones '783 nor Wynings '451 teach apparatus or methods for stamping wet concrete.

Since the claimed method is not shown by Jones '783 or Wynings '451, alone or in combination, it is respectfully asserted that claim 31 is non-obvious under 35 USC 103(a) in view of the cited art. Accordingly, it is respectfully asserted that claim 31 is allowable over the cited art.

Since claim 31 is non-obvious under 35 USC 103(a), claims 32-34, dependent thereon, are also non-obvious under 35 USC 103(a) in view of the cited art for the same reasons. These claims further distinguish the invention over the cited art.

Claims 3, 14 and 24 were rejected under 35 USC 103(a) as obvious over Jones '783 in view of Wynings '451, as applied to claims 1, 12 and 22, and in further view of Zieger, et al. (U.S. Patent No. 5,846,176) (Zieger '176).

Claims 1, 12, and 22 are the independent claims, on which claims 3, 14 and 24 respectively depend. Claims 1, 12 and 22 have been discussed above. Those discussions are applicable here.

Jones '783, Wynings '451, and their inability to be properly combined, have been discussed above. These discussions are applicable here.

Zieger '176, cited to teach concrete stamping rollers with a textured surface, can not be modified onto the Jones '783 device, absent hindsight, as to do so would destroy the Jones '783 device. Specifically, any replacement of the blades on the Jones '783 roller with a textured surface, as taught by Zieger '176, would not be hard enough to be vibrated into the concrete to cut or saw into it, for imprinting. Accordingly, the skilled artisan would lack any and all motivation to modify Jones '783 and Wynings '451 with Zieger '176, and as such claims 1, 12 and 22 are non-obvious under 35 USC 103(a) in view of the cited art.

Since claims 1, 12 and 22 are non-obvious under 35 USC 103(a), claims 3, 14 and 24, respectively dependent thereon, are also non-obvious under 35 USC 103(a) in view of the cited art for the same reasons. These claims further distinguish the invention over the cited art.

Claims 4, 11, 15, 21, 25 and 30 were rejected under 35 USC 103(a) as obvious over Jones '783 in view of Wynings '451, as applied to claims 1, 12 and 22, and in further view of Brimo (U.S. Patent No. 4,776,723) (Brimo '723).

Claims 1, 12, and 22 are the independent claims, on which claims 4 and 11, 15 and 21, and 25 and 30 respectively depend. Claims 1, 12 and 22 have been discussed above. Those discussions are applicable here.

Jones '783, Wynings '451, and their inability to be properly combined, have been discussed above. These discussions are applicable here.

Brimo '723 is directed to patterns in flat mats and has nothing to do with rollers for imprinting concrete, like that of Jones '783.

Accordingly, Brimo '723 fails to add anything to Jones '783 and Wynings '451, and accordingly, the combination of Brimo '723 with Jones '783 and Wynings '451 remains deficient for the same reasons as the combination of Jones '783 and Wynings '451, as discussed above.

Based on these reasons, it is respectfully asserted that the Brimo '723 disclosure does not provide any teachings or suggestions, that if combined with Jones '783 and Wynings '451, would arrive at the claimed invention. Accordingly, it is respectfully asserted that claims 1, 12 and 22 are non-obvious under 35 USC 103(a) in view of the cited art.

Since claims 1, 12 and 22 are non-obvious under 35 USC 103(a) in view of the cited art, claims 4 and 11, 15 and 21, and 25 and 30, dependent on claims 1, 12 and 22, respectively, are

also non-obvious under 35 USC 103(a) in view of the cited art for the same reasons. These claims further distinguish the invention over the cited art.

Additional Remarks and Conclusion

New claims 49-53 have been added to round out the scope of the invention. These claims are dependent on claim 1, 12 and 22, respectively, which as asserted above, are allowable over all of the cited art. Accordingly, it is respectfully asserted that these dependent claims are allowable over all of the cited art for the same reasons. These claims further distinguish the invention over the cited art.

Additionally, the applicant wishes to inform the Examiner of two pending and commonly owned U.S. Patent Applications claiming priority from this application. U.S. Patent Application Serial No. 10/932,822, is a continuation in part application of U.S. Patent Application Serial No. 10/697,364, which is continuation in part application of this application.

Should the Examiner have any questions or comments as to the form, content, or entry of this paper, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

PATENT

Attorney Docket No. 64245

Express Mail Label No. EV 525171044 US

Entry of this paper and allowance of all pending claims, claims 1-4, 6, 7, 9-17, 19-27, 29-34, and 49-53, is respectfully requested.

Respectfully submitted,

POLSINELLI SHALTON WELTE SUELTHAUS PC

Date: April 27, 2005

By: 

Jerome R. Smith, Jr., Reg. No. 35,684

700 W. 47th Street, Suite 1000

Kansas City, Missouri 64112

Tel: (816) 360-4119

Fax: (816) 753-1536

Attorney for Applicant

047762 / 064245

JRSMI 1191068